

**REGULAR MEETING
of the
CITY OF RIALTO
CITY COUNCIL/REDEVELOPMENT AGENCY
and
RIALTO HOUSING AUTHORITY
MINUTES
September 21, 2004**

A regular meeting of the City Council/Redevelopment Agency of the City of Rialto was held in the City Council Chambers located at 150 South Palm Avenue, Rialto, California 92376, on Tuesday, September 21, 2004.

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This meeting was called by the presiding officer of the Rialto City Council in accordance with the provisions of **Government Code §54956** of the State of California.

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CALL TO ORDER

Mayor Pro Tem Wilson called the meeting to order at 4:02 p.m.

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The roll was called and the following were present: Mayor Pro Tem Wilson and Council Members Hanson and Sampson. Also present were City Administrator Garcia, City Attorney Owen and City Clerk McGee. Mayor Vargas was absent.

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CLOSED SESSION

1. Conference with Legal Counsel – existing litigation. The City Council will discuss the following pending litigation pursuant to Government Code Section 54956.9(a):
 - (a) City of Rialto v. United States Department of Defense, et. al.
(United States District Court Case No. EDVC 04-00079)
 - (b) Raul Ramirez v. City of Rialto, et. al.
(San Bernardino Superior Court No. SCVSS114404)
2. Conference with Legal Counsel – anticipated litigation. The City Council will meet with its legal counsel to discuss initiating litigation pursuant to Section 54956.9, subdivision (c) of the Government Code with respect to one potential case.

CLOSED SESSION

Motion by Council Member Hanson, second by Council Member Sampson and carried by unanimous vote to go into Closed Session. City Council went into Closed Session at 4:07 p.m. and returned at 4:40 p.m.

Mayor Vargas arrived during Closed Session.

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CALL TO ORDER

Mayor Vargas called the meeting to order at 6:05 p.m.

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The roll was called and the following were present: Mayor Vargas, Mayor Pro Tem Wilson, Council Members Robertson, Hanson and Sampson. Also present were City Administrator Garcia, City Attorney Owen and City Clerk McGee.

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Pledge of Allegiance and Invocation

Girls Scout Troop #233 led the pledge of allegiance. Pastoral Intern Doug Story – Sunrise Church gave the Invocation.

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CITY ATTORNEY'S REPORT ON CLOSED SESSION

City Attorney Owen stated that in Closed Session the City Council conferred with its attorney regarding the one existing litigation case City of Rialto v. United States Department of Defense et. al. shown on the Closed Session portion of the agenda and the City Council took no official action in that matter. Regarding the case of Raul Ramirez v. City of Rialto et. al. the City Council authorized the defense of the City and the individual city employees named in that action by the firm Franscell, Strickland, Robertson & Lawrence. The City Council also conferred with its attorney regarding one item of anticipated litigation.

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PRESENTATIONS AND PROCLAMATIONS

Greta Hodges, President of Friends of Rialto K-9's, congratulated Officer Maltese and K-9 Mike for completing a narcotics training class and is now certified.

Alyssa Mayorga, 9 years old, started collecting pennies to purchase bullet proof vests for the police K-9's. K-9 Mike's vest is the 7th vest she has purchased from collecting pennies and receiving donations.

Mayor Vargas gave Miss Mayorga a jar of pennies to add to her collecting efforts.

Police Chief Michael Meyers thanked and appreciated Miss Mayorga for her dedication, selflessness and volunteerism.

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PRESENTATIONS AND PROCLAMATIONS

Council Member Robertson asked what is the cost of each vest and where can people send more pennies to Alyssa.

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Mrs. Mayorga, mother of Alyssa stated that they get the vests at cost \$377 instead of \$510. E-mail address for donations is pennieprincess@aol.com or by mail to 10452 Luders Avenue, Garden Grove, CA 92843.

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Robb Steel, Economic Development Director gave a presentation on the growth and property valuations of the City.

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June Overholt, Chief Financial Officer gave a presentation regarding the website redesign.

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Julie Gilbert, County of San Bernardino Solid Waste Management Division gave a presentation regarding the potential perchlorate impacts and remedial alternatives near Rialto Water Well No. 3.

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Council Member Robertson stated that Ms. Diane Woods is the Project Coordinator for the African American Health Initiative and because Rialto is one of the more diverse communities in San Bernardino County she thought it would be beneficial for Ms. Wood to give a presentation to the City Council.

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Diane Woods, Project Coordinator of Health Planning gave a presentation regarding the African American Health Initiative in San Bernardino County.

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CONSENT CALENDAR

A. WAIVE FULL READING OF ORDINANCES

1. Waive reading in full, all ordinances considered at this meeting.

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B. APPROVAL OF WARRANT RESOLUTIONS

1. Resolution No. 10 (9/03/04)
2. Resolution No. 11 (9/10/04)

CONSENT CALENDAR

C. SETTING OF PUBLIC HEARINGS

1. Request City Council/Redevelopment Agency and Housing Authority to set a Joint Public Hearing for the **October 5, 2004** City Council Meeting to consider the sale of real property by the Rialto Authority to The East Los Angeles Community Union for development of a senior housing project.
2. Request City Council to set a Public Hearing for the **October 5, 2004** City Council Meeting for General Plan Amendment No. 14 and Specific Plan Amendment No. 5 to the Central Area Specific Plan.

D. MISCELLANEOUS

1. Request Rialto Housing Authority to consider Amendment No. 2 to the Predevelopment Services Agreement between the Rialto Housing Authority and the Southern California Housing Development Corporation.
2. Request Rialto Housing Authority to adopt **RHA Resolution No. 0008-04** approving the 2003/04 Housing Activity Report for the Rialto Housing Authority.
3. Request the Redevelopment Agency to approve the engagement of Bond Counsel Fulbright & Jaworski and Fiscal Consultant HDL Companies in connection with potential Tax Allocation Bond Issue.
4. Request the Redevelopment Agency to approve the Professional Services Agreement with Keyser Marston Associates, Inc. for professional and technical services in an amount not to exceed \$50,000.
5. Request City Council to adopt **Resolution No. 5158** approving the 2004-2009 Measure I, Five Year Capital Improvement Program and Twenty-Year Transportation Plan.
6. Request City Council to approve the purchase of two (2) new Ford Trucks by the Public Works Department Water Division from Pearson Ford for the amount of \$47,426.16.
7. Request City Council to approve the purchase of two (2) new Ford Trucks by the Public Works Department Maintenance Division for the Chino Hills Ford for the amount of \$44,219.82.
8. Request City Council to approve and authorize a Purchase Order to Meyers Tire Supply for \$21,937.04 for the purchase of three (3) vehicle lifts by the Public Works – Maintenance Division.

CONSENT CALENDAR

D. MISCELLANEOUS (*continued*)

9. Request City Council to adopt **Resolution No. 5159** approving the submission of State Water Resources Control Board, Water Recycling Facilities Planning Grant Application for a Planning Study on Wastewater Tertiary Treatment and Reclaimed Water.
10. Request City Council to make findings of continuing the Emergency for the Acquisition of Wellhead Treatment.
11. Request City Council to make findings of continuing emergency authorized at the September 7, 2004 meeting for the Raw Sewage Clean-up & Facilities Rehabilitation at Fire Station No. 203.

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City Administrator Garcia removed Consent Calendar Item No. 8 and will bring it back at a later date.

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Motion by Mayor Pro Tem Wilson, second by Council Member Robertson and carried by unanimous vote to approve the Consent Calendar as presented with the removal of Consent Calendar Item No. 8.

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NEW BUSINESS

**TAB 1 – Resolution No. 5160 –
accepting the Dept. of Justice Local
Law Enforcement Block Grant**

Police Lieutenant Tony Farrar stated that this is the ninth year the U.S. Department of Justice has accepted applications for the Local Law Enforcement Block Grant (LLEBG). This year's grant award is a little over \$52,000. For law enforcement applicants these grants funds may be used in a variety of different areas to include hiring and training of employees on a continual basis, paying overtime for employee law enforcement or support personnel, accruing equipment or technology or other related materials directly related to basic law enforcement functions or enhancing security at different facilities. There are two requirements for this grant, the first being a 10% cash match that will be provided from a transfer of funds from an already existing State COPS Fund account and the second requirement is a department established non-binding advisory board in order to review the application and make non-binding recommendations for the expenditures of the funds. After this review, both staff and the Advisory Board agreed that the best use of these funds would be applied towards the cost of the Wakenhut Jail Officers at the Police Department. Staff is requesting that City Council accept this grant and amend the budget accordingly and to approve the recommendations of the Advisory Board.

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NEW BUSINESS

TAB 1 – Resolution No. 5160 – accepting the Dept. of Justice Local Law Enforcement Block Grant

Mayor Vargas declared the public hearing open. No. one came forward.

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Motion by Council Member Sampson, second by Council Member Robertson and carried by unanimous vote to close the public hearing.

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Motion by Council Member Sampson, second by Council Member Hanson and carried by unanimous vote to adopt **Resolution No. 5160** accepting the U.S. Department of Justice Local Law Enforcement Block Grant Program (LLEBG-2004), amend the budget accordingly and approve the recommendations of the grant advisory board and authorize the Finance Department and the Police Department to proceed with formal *Request for Drawdown* process established by the Department of Justice for disbursement of these funds

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TAB 2 – Proposed Second Amendment to the Redevelopment Plan

Robb Steel, Economic Development Director stated that this item is to consider two primary documents the Second Amendment to the Redevelopment Plan and the Mitigated Negative Declaration. *He introduced Jim Simon, consultant who prepared the Redevelopment Plan Amendment and the report to City Council. Keaton Kritser, consultant who prepared the Mitigated Negative Declaration.* He stated that they did receive objections to the Second Amendment and in accordance with Redevelopment law they are obligated to provide written responses to those objections at a subsequent date. Tonight's meeting for the most part will be to conduct the Joint Public Hearing, take testimony for and against the Second Amendment and then continue the public hearing until a later date. They presented a slide show that explains the purpose of the Second Amendment and what some of the conditions are, that warrant the Second Amendment. Mr. Steel stated that the purpose of the Plan Amendment is to authorize or reactivate the power of eminent domain within certain portions of the merged Agua Mansa, Central Business, gateway and Industrial project areas. In 2002 they merged four project areas into a single project are, now called the Merged Project Area and added approximately 3700 acres of additional land. As of July 2002 they have a single project area made up of five constituent areas. The Agency's power of eminent domain automatically expired 12 years after adoption of the Redevelopment Plan for the Agua Mansa Project in 2000.

NEW BUSINESS

TAB 2 – Proposed Second Amendment to the Redevelopment Plan

Robb Steel, Economic Development Director stated that the Central Business District Project expired in 2002 and the Gateway Project in 1997. The Agency never had the power of eminent domain in the Industrial Project Area. The Agency currently has the power of eminent domain in the added territory, the 3700 acres that added in 2002 for non-residential properties only. This covers approximately 50% of the land in the Project area. Half of the current project area of 7500 acres has the authority of eminent domain. Where would eminent domain be authorized with the Second Amendment, for non-residential properties, except for three properties located on Riverside Avenue, residential properties are not affected by this amendment. For non-residential properties, commercial, industrial, vacant and others, they propose to capture the power of eminent domain for the Industrial Project Area north of Baseline Rd., the Agua Mansa Area and for the Gateway Project Area. The three residentially occupied properties within the added territory, they are seeking eminent domain authority, are located on Riverside Avenue just south of San Bernardino Avenue. These are the only three residential properties affected by this amendment. If anyone legally resides on their property they are not covered by this amendment. Eminent Domain is the power of government to acquire property for a public purpose, which typically included redevelopment authorities, after payment of just compensation. After a series of procedural steps, usually proceeded by negotiations with the property owner and only after negotiations fail does this governmental body have the authority to consider the use of eminent domain. The reason why they want to reactivate the power is that in the affected areas there are number of conditions that make eminent domain a valuable tool for assembling properties and causing economic development on the assembled properties. In most of these areas they are irregularly shaped lots, under multiple ownerships, abandoned and obsolete uses and incompatible land uses which cause development to be deterred. They are looking to create a high quality of development by master planning, by creating larger development parcels that avoid fragmented development patterns typically seen along arterial highways. They have tried to document some of the conditions that still exist in the project areas. All of the project areas were created based on the findings of blight made at the time of the original adoption. They made additional findings when the added territory was established in 2002, but the consultants have gone out and provided support that some of these conditions still exist. Some of the conditions that come out of the Redevelopment Law and form the basis for creating project areas: An excessive number of vacant lots, parcels that are irregular and inadequate size to support modern development and under multiple ownerships.

NEW BUSINESS

TAB 2 – Proposed Second Amendment to the Redevelopment Plan

Robb Steel, Economic Development Director stated this includes inadequate public infrastructure, incompatible land uses, unsafe and unhealthy buildings, impaired investments and economic maladjustments. In terms of an overview, with 6,000 parcels in the project areas, there are very few properties that will ultimately be acquired by the Agency. Just because it's in a project areas doesn't mean they will acquire properties. The City Council has only exercised the power of eminent domain only once in 1988. This is a tool that is used very judiciously. He stated that circumstances exist for the potential application of that tool to be in the future. They rarely use eminent domain as mentioned, and only utilize it as a last resort and in most cases they will exhaust all avenues to negotiate purchases when they are interested in a property. If there is not a meeting of the mind in terms of the price or the principle of the matter in terms of selling the property, this will be something they will submit to City Council for consideration. No particular properties are proposed to be acquired at this time .this simply putting the tool in place so that they know when they sit down and try to identify projects and programs, and that the tool is in the toolbox if it does need to be deployed. Finally, if the process is required there is a strict public acquisition process; they would need to notify the property owners because this isn't done without their knowledge. The appraiser will need to accompany them during the inspection of the property and will have to make an offer based on the appraised fair market value. They have the opportunity to submit competing information and they cannot consider it in adjusting the offer and if they can't come to terms then at that point they will need to submit the matter back to City Council and the City Council will have to adopt a Resolution by a 4/5ths vote. He stated that there are several written statements that were submitted and will be incorporated into the record and will have to make written findings at the next meeting.

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Mayor Vargas stated that the following is a list of ground rules for receiving public testimony:

All persons desiring to speak on the Second Amendment will be given the opportunity to speak.

There is a 5 minute time limitation for each speaker.

The order for speaker comments will be – First, those in favor and second, those opposed and finally all others.

Before speaking please give your name, address and organization if any.

Limit all comments to the subject at hand.

NEW BUSINESS

TAB 2 – Proposed Second Amendment to the Redevelopment Plan

Mayor Vargas declared the public hearing open.

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City Attorney Owen stated that before the first speaker comes forward he would like to state for the record that the City has received five letters in opposition and some of them more strongly than others which will be included into the record.

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Wayne Morin, 2224 Cool Crest Way, Upland, stated that he did not receive any written notice about any meetings regarding the Second Amendment and heard it through a Realtor. He expressed his concern of the discussion of eminent domain in 2004 when the 210 Freeway will not open until 2007/2008. He stated that he plans to develop his property, located on Laurel Avenue above the Airport, when the freeway opens.

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John Kerwin, Lawyer with Graham, Vogie and Cisneros, stated that they represent certain property owners within the Merged Plan area. He stated that he submitted a written objection to the City Clerk's Office earlier today.

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Bob Minick, 115 Randall Ave., expressed his disapproval of a Wal-Mart Supercenter in Rialto.

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Joe Kabuan, 1299 N. Maple Ave., expressed his dissatisfaction that the airport is being utilized for other things besides airplanes.

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Ethel Ostendorf, Claremont resident, owner of a piece of property south of Highland Ave. and west of Alder Ave., expressed her dissatisfaction with the lack of consideration for land owners who want to develop.

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Rick Ferber, property owner of 1771 S. Cactus Ave., expressed his concern regarding eminent domain.

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Katherine Winshift, property owner of 2801 Riverside Ave., expressed her concern on how the decisions being made are going to affect her property and the possibility of eminent domain.

NEW BUSINESS

TAB 2 – Proposed Second Amendment to the Redevelopment Plan

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June Hayes, P.O. Box 2395, Rialto, expressed her concern regarding eminent domain.

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Gary Duteou, land owner for property located north of the Airport, expressed his concern regarding eminent domain and his ability to develop his property.

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Randy Norvack, 13381 Foothill Blvd., Fontana, expressed his concern regarding the airport and its poor management.

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Gil Gonzales, operates the restaurant at the airport, expressed his concern regarding eminent domain and wanted to know if it includes leased property.

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Maria Gonzales, operates the restaurant at the airport, expressed her concern regarding the airport and eminent domain.

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Motion by Council Member Sampson, second by Council Member Robertson and carried by unanimous vote to close the public hearing.

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City Attorney Owen stated that as mentioned earlier under the law when written comments are submitted, they are required to be responded to in writing by the City and staff will propose that City Council would continue this item to the next regular meeting of the City Council and direct staff to prepare in the mean time those written responses and provide them and make them available to City Council and the public at the next meeting.

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Robb Steel, Economic Development Director stated in brief response to these concerns; that on the noticing procedures, they did comply with the legal requirements that they did send out a mailer, first-class based on a mailing list they derived from a service that takes a look at the County's last assessment rolls. They did get a number of the letters back, because the addresses did not exist or were not deliverable. The Airport status seemed to be common question.

NEW BUSINESS

TAB 2 – Proposed Second Amendment to the Redevelopment Plan

Robb Steel, Economic Development Director stated that this City Council has approved a report that basically indicated that they were looking at two options. One is a scaled back version of the airport with surplus properties that are not necessary for airport operations being examined for further development potential. The issue was raised as to why the City bought land for an Airport expansion and the expansion isn't occurring. He stated that to the best of his knowledge the FAA denied funds to build that additional runway because they deemed that there was no demand for the longer runway. The question was raised of why now instead of waiting until 2007/2008. The reason why is because they did not want to be left holding the bag when the freeway opens up and they are totally unprepared for the growth that is inevitably going to occur and most cities have this tool, which is crisis management at that point in time. This process takes nine months to get from when they first started to here. He stated that he still thinks it's an important arrow to have and they don't have any specific plans of use. There may be a potential in the future but they can't point to a specific property at this point in time. An issue was raised about the negative declaration being inadequate and they did hire a consultant who looked at prior situations where cities adopted similar amendments and a mitigated negative declaration was the appropriate vehicle, but they will address that in writing. Wal-Mart is not part of their planning, they do have a project that is in the EIR stage that City Council will be considering later this year or next year. They are not buying property for Wal-Mart. They have looked at that block and do believe it has strong retail development potential down the road, whether it's Wal-Mart, Target, or any other retail store. Its approximately 60 acres and the City is looking to capitalize on the freeway location on providing goods and services to its population. There was a comment about residents by the Airport, he reemphasized again that people who live in properties by the Airport and in the affected areas are not affect because they will have no authority to acquire their property unless they do so by volunteering negotiations. The property owner who has property south of Highland Ave. and west of Alder Ave., this is not affected by the Amendment being considered, but it is in the added territory and is subject to eminent domain but will not have any direct affect to her property regarding the second amendment. Caltrans did create problems by cutting up the properties that are now difficult to develop properties. He stated that he is not sure where 1771 S. Cactus Ave. is located, and the citizen indicated that it was developed industrial property. As a general rule, developed properties while they can be acquired through eminent domain, they are usually avoided because of the cost and expense.

NEW BUSINESS

TAB 2 – Proposed Second Amendment to the Redevelopment Plan

Robb Steel, Economic Development Director stated that they are trying to minimize the investment and trying to get the biggest bang for their buck. If they have to acquire improved property, they have to clear it and deliver it for other purposes and the costs are enormous. The obvious costs are acquisition, they have to relocate that business and many cases there is a loss of goodwill claim, and so they try to avoid developed properties to the maximum extent possible. Sometimes this is not possible because there is one developed property that is surrounded by blighted or vacant properties. When they see agencies using eminent domain, it is usually on vacant property or severely blighted properties where the improvements don't contribute much value. The property at 2801 S. Riverside Ave., is in the Agua Mansa Project Area and is affected by the Amendment, which is one of the areas that eminent domain would be reauthorized. There are properties that have some similar characteristics of irregular parcels in the area and this where they would apply the tool of eminent domain if needed. Most of Agua Mansa doesn't satisfy that criteria, if the property is in good physical shape, maintained properly and doesn't a lot of other development opportunities around it, it will remain as is as long as the owner keeps up the property. In regards to Mr. Duteou's question, City Council has asked them to evaluate two options and they have just kicked off a community outreach effort to seek citizen input on this. The process for acquisition, someone indicated that its just offer whatever you want and it's not quite that simple. You have to have an appraisal and that value is submitted to the City Council and they then adopt that value, they make this offer to the other side and they have the opportunity to get their own appraisal and ultimately if they can't negotiate and agree on a price it's going to be determined by a judge in a trial and the competing appraisals are tried in court and they have to deposit that amount money with the court and pay what the court system decides what needs to be paid. There is a lot of due process and procedural protection for the property owner. He tried to point out that it's a very arduous process and it's not something that happens often. He does understand the threat that they feel, and a lot of times they say they will not maintain their property because it can just be taken. Well, they should do it because it's going to make their property more valuable if and when the City does go to acquire it. Look around the City, he mentioned the growth and assessed value in the added territory. This whole area is encumbered by the same threat, ProLogis, Target, and any number of other property owners developing their property with no fear from the Redevelopment Agency. By law the Redevelopment Agency before it would convey land that intends to assembly to a developer has to offer the same development rights to the owner.

NEW BUSINESS

TAB 2 – Proposed Second Amendment to the Redevelopment Plan

Robb Steel, Economic Development Director stated that they have equal opportunity to submit a proposal to develop their property as long as it's in conformance with the Redevelopment Plan. A lot of time they are looking for a much larger project and in some cases there may be property owner that has the capability to do that and submit a competitive proposal. The City Council will then have to decide does the bigger project prevail over the smaller project. A lot of the power lies with the City Council after taking public testimony on a case by case basis. Lastly there was comment regarding the leases on the Airport property. Eminent Domain Authority does cover leases on property. If the Redevelopment Agency had the authority and it decided that it could buy the underline property from the owner but there was long term lease on it. It could condemn that lease to in effect terminate it and they would still be obligated to pay potential compensation to that lease holder and would be obligate to relocate that business. For everyone's information there will not be any further notice, the City Council will consider this item on October 5, 2004. A written report should be available the Thursday before the meeting.

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City Attorney Owen stated that it would be helpful if Robb stayed after the presentation of the staff report if people had other questions regarding their property.

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Robb Steel, Economic Development Director stated yes either himself or Greg Lantz would answer any questions.

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Mayor Pro Tem Wilson stated that for anyone who was not here tonight to speak to Mr. Robb Steel and who had questions regarding the clarity of the map where they could not tell what was what, are there any suggestions for the people who can not talk to Mr. Steel personally?

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Robb Steel, Economic Development Director stated that they can call his office and give the address and the general location they can tell them If they are affected by this Amendment or not. if they do have the time to visit the Redevelopment Agency offices, they have an aerial photo that some of the areas overlaid which is easier to read.

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Mayor Vargas stated that for the people who did not receive a notice, to get their correct address for the future.

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NEW BUSINESS

TAB 2 – Proposed Second Amendment to the Redevelopment Plan

Robb Steel, Economic Development Director stated that every time they do this they are bound to go through the last equalized assessment roll. A lot of times from the time it's published a lot of owners have changed. They missed some new owners and they should not have missed older owners, but the system is not perfect and he apologizes for any instances where owners or tenants didn't get noticed.

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City Attorney Owen stated that one final that should be recognized is that the City Council is very conscience about the concerns that have expressed here tonight. The power of eminent domain is a power set forth by State law and curtailed by the United States Constitution. He wishes that the courts, over the years, had used different nomenclature. Taking property has a different connotation than paying the fair market value for property. He wishes it would have been a right to exchange instead of right to take.

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(voice from the audience) Who decides the fair market value?

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City Attorney Owen stated that the fair market value is decided in a complex process. In his almost 15 years as City Attorney, the City has had the power of eminent domain city-wide and the Redevelopment Agency has had the power of eminent domain in over half of the project areas seen this evening. They have used this power, twice in 15 years, and in one of those cases the parties very quickly agreed on a fair market value and in the other they had to go to trial and the City ended up paying more than it thought. The City is very circumspect about using the power of eminent domain even when it does exist, so bear with us.

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Motion by Mayor Pro Tem Wilson, second by Council Member Sampson and carried by unanimous vote to continue TAB 2 until the next meeting.

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Mayor Vargas thanked everyone who came today to express their concerns.

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NEW BUSINESS

TAB 3 – Continue Public Hearing until October 5, 2004 – Consolidated Annual Performance and Evaluation Report

City Administrator Garcia stated that staff requests to continue the public hearing until the October 5, 2004 City Council Meeting.

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Motion by Council Member Robertson, second by Mayor Pro Tem Wilson and carried by unanimous vote to continue the public hearing until the October 5, 2004 City Council Meeting to consider and approve the City's Consolidated Annual Performance and Evaluation Report.

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TAB 4 – One Year Landscape Maintenance Contract to Venco Western

Assistant City Administrator Warner stated that this is a request by the Public Works Department for the award of a One Year Landscape Maintenance District Remediation and Maintenance Contract with Venco Western. As discussed they had some difficulties in the Landscape Maintenance District No. 1 over the past few months and they found it necessary to replace that Contractor. They have went out and got informal bids under their ability of the City Administrator and the purchasing ordinance in an emergency situation. They have had instances in the Landscape Maintenance District of dead and dying vegetation and lack of performance in that particular area. This contract for a one year period will be this contractor in to remediate those problems, to maintain the Landscape Maintenance Districts and bring them back to an acceptable level of performance. He requests that the City Council find first that there were circumstances related to this project that require the City to take swift action in response to the emergency of the Landscape Maintenance District by awarding the contract for remediation and maintenance of the District to Venco Western and that there is need to continue this emergency action authorized at this meeting and to authorize subsequent expenditures until remediation and stabilization of the Landscape Maintenance District No. 1 is complete. Secondly, they would recommend that City Council authorize the City Administrator to execute contracts. Finally, the purchasing ordinance under emergency appropriations requires that the City Council review this emergency action at this and all other subsequent regular meetings until the action is terminated.

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Council Member Hanson stated that she is pleased that they were able to move this item very quickly to correct the problem.

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NEW BUSINESS

**TAB 4 – One Year Landscape
Maintenance Contract to Venco
Western**

Motion by Council Member Hanson, second by Council Member Robertson and carried by unanimous vote to award a One Year Landscape Maintenance District remediation and Maintenance Contract to Venco Western in the amount of \$230,400

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**TAB 5 – Cooperative Agreement with
the City of Colton for Traffic Signal
Construction**

Assistant City Administrator Warner stated that this is a request to have an amended Cooperative Agreement with the City of Colton for Traffic Signal Construction at the corner of Riverside Ave. and Agua Mansa Rd. in February 2003 they entered into a Cooperative Agreement with the City of Colton under which they were going to do this signal where the City of Rialto owns and maintains 75% of this corner and City of Colton has 25%. As they completed the design, the City of Rialto did complete this as a lead City, they have been asked to amend this Cooperative Agreement with the City of Colton due to the fact that they have other signal projects they have been trying to construct in the City and get bids and have not been successful because the projects have been too small. The City of Colton has requested to be the lead Agency for the construction of the signal and they will include it in a bid packet they will use for other projects within their City. Under this Cooperative Agreement the City of Colton will reimburse the City of Rialto for their portion of the design already completed and they will be the lead Agency for construction and the City of Rialto will provide the money City of Colton for the construction portions and when is completed they will maintain 25% of the signal under this Cooperative Agreement. He requested that the City Council authorize the amendment to the Cooperative Agreement with the City of Colton and authorize the City Administrator to execute the amended agreement. Staff also recommends that City Council approve the purchase order for the City of Colton in the amount of \$144,000, a net of 75% city construction costs of \$150,750 less the amount of the 25% City of Colton design costs of \$6,750 they will be returning to the City of Rialto.

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Council Member Robertson stated that for clarification, they are going to bundle the signal with Colton and let them be the lead Agency for construction, do they have a timeline when the Rialto signal will be installed.

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Assistant City Administrator Warner stated that it's his understanding that the City of Colton is ready and willing to go out and bid this project. Since the design is complete, they can't give an exact timeline, but they are ready to move forward.

NEW BUSINESS

TAB 5 – Cooperative Agreement with the City of Colton for Traffic Signal Construction

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Council Member Robertson stated that when they do bundle and once its out to bid and its not stated in the Contract up front then its left to the Contractor to decide the staging of the work. She cautions and suggests that they follow up and ask that the signal be one of the first orders of work.

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Assistant City Administrator Warner stated that they will clarify the timeline and include language in the Cooperative Agreement that states the timeline.

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Motion by Council Member Hanson, second by Council Member Robertson and carried by unanimous vote to approve the Amended Cooperative Agreement with the City of Colton for Traffic Signal Construction at Riverside Avenue and Agua Mansa Road in the amount of \$171,000.

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TAB 6 – Cooperative Agreement with the County of San Bernardino for Traffic Signal Construction

Assistant City Administrator Warner stated that this is a Cooperative Agreement with the County of San Bernardino for Traffic Signal Construction at Cedar Ave. and Randall Ave. This ranks No. 2 on the City of Rialto priority list for needing traffic signalization. The City has been anxiously awaiting the ability to work with the County on this particular signal. This Cooperative Agreement will provide that the County of San Bernardino would be the lead Agency in terms of the construction and they have come to the City with this request. The City of Rialto will provide 50% of the funding when it is completed. There is not a specific timeline but they are ready to move forward. Staff is recommending that the City Council approve the Cooperative Agreement with the County of San Bernardino and authorize the City Administrator to enter into the Agreement. Also, staff recommends that the City Council approve the purchase order for County of San Bernardino in the amount of \$150,000. These funds are available and budgeted in the City of Rialto Traffic Development Fund and available through the CIP for this year and have been appropriated.

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Council Member Robertson stated that again with this project is placed within the Scope of Work, when they obtain a Contract to do the work, to make this signal at the top of the work order.

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NEW BUSINESS

TAB 6 – Cooperative Agreement with the County of San Bernardino for Traffic Signal Construction

Motion by Council Member Robertson, second by Mayor Pro Tem Wilson and carried by unanimous vote to approve a Cooperative Agreement with the County of San Bernardino for Traffic Signal Construction at Cedar Avenue and Randall Avenue in the amount of \$150,000.

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TAB 7 – Resolution No. 5161 approving the 2005-2009 Capital Improvement Program

Assistant City Administrator Warner stated that many of the projects and programs within the Capital Improvement Program (CIP) have been discussed during the budget process and everything in the CIP and what they have done subsequently with the extra project that City Council appropriated the monies for, \$1.8 million, have been included. This particular document is an annual review of a Five-Year Plan that goes before Commission and Committees within the City to validate that it is staying within City Council's goals and wishes and that it's meeting the needs for projects they are able to fund. This year this has been review by the Planning Commission which is required by law. The CIP has also been reviewed by the Transportation, Utilities, and Beautification Commissions. They have in this particular CIP FY 04/05; they have approximately \$8.6 million worth of capital projects. There are copies available for any member of the public wishing to view the CIP. The summary schedule lists all the various projects and some are specifically related to the General Fund and general beautification of the City. There are also a number of Special Revenue Funds such as Measure I. There is just over \$1.5 million in projects coming up this year for reconstruction and overlays. They have signal monies that they have already started entering into agreements to get those constructed this year. There are also curb, gutter and sidewalk replacements, upcoming. There is another fire engine that will be purchased in conjunction with CDBG funds. They continue to see the benefit of the Utility User Tax in the Capital Projects and equipment. There is just over \$1.2 million in projects that are anticipated at the Wastewater Treatment Plant, such as necessary upgrades. There are over \$2million in carryover projects that are still in process. This CIP includes another four year worth of planning and approximately \$23.7 million worth of projects that they anticipate being able to fund and complete of the next four years. There are four projects included in the CIP that they don't believe they can identify specific funding for those either through Federal, State or Local manner for full funding, such as the I-10/Riverside Overpass. They have started to design and this is a very long term project and they had monies approved at the Federal level but they are a long way from getting the full funding.

NEW BUSINESS

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TAB 7 – Resolution No. 5161 approving the 2005-2009 Capital Improvement Program

Council Member Robertson stated that it shows they are carrying over \$100,000 for the I-10/Riverside Overpass project. At any point will they lose the funding identified or made available if they don't expend the monies?

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Assistant City Administrator Warner stated that they are looking into this and City Council will receive a response. This project has been held up because of Fly Mitigation issues and now some design issues. They continue to move on this but when the project is approaching the \$20 million mark and they only receive small amount of money at a time, it is important they stay on top of this and recognize that this is a long term process. With the Federal process they have to keep the funds appropriated.

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Motion by Council Member Sampson, second by Council Member Robertson and carried by unanimous vote to adopt Resolution No. 5161 approving the 2005-2009 Capital Improvement Program.

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Mayor Vargas stated that the people have seen a lot of changes and enhancements in the City. She stated that she likes to see what will be done for the future which will bring them closer to a top of the line image. A lot of these things are possible because of grants received and because of staff staying on top of things by making sure they don't spend what they don't have. She stated that the people want to see results and she thanks and appreciates the staff for their hard work.

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ORAL COMMUNICATIONS

June Hayes, P.O. Box 2395, expressed her concern over how presentations are shown, where residents who take the time to come down can't see or hear the presentations clearly. She encouraged the City Council to ban all cell phones, because the ringing in the middle of a meeting is so rude. She also expressed her concern over the Public Meetings set regarding perchlorate issue held by the County of San Bernardino.

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Chief Financial Officers Report

June Overholt, Chief Financial Officer presented the financial report for month ending in June, 99% of the year.

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REPORTS

Council Member Robertson expressed her congratulations to Faye Coates who will receive the Crystal Award from her hometown Detroit, Michigan acknowledging her career achievements in the area of Songstress and Concerts.

Council Member Robertson stated that she attended the 2nd Annual San Bernardino County Senior Citizens Olympics Event.

Council Member Robertson stated that she attended the Rialto Democratic Club Annual Dinner, where Firefighter Nick Delia was acknowledged.

Council Member Robertson stated that she attended the International Family Festival on Saturday where there was a great turnout.

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Council Member Sampson reminded everyone that 3:00 p.m. on Friday the Senior Center will be having its First Anniversary.

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Council Member Hanson stated that she has had a busy time with the opening of Mr. Roberts, which is being performed now at the Rialto Community Playhouse.

Council Member Hanson stated that she attended her 50th High School Reunion.

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Mayor Pro Tem Wilson expressed his congratulations to Rialto Native Brandy Burton who has another Ladies Professional Golf Association milestone; there is an article in the newspaper where she has career earnings that have now totaled \$4 million.

Mayor Pro Tem Wilson stated thanked Joanne Burg and Judy Hopkins who have been out on their own trying to beautify the City by removing signs totaling 290.

Mayor Pro Tem Wilson stated that the Relay for Life is coming October 16-17; it is the American Cancer Society's primary fundraiser.

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Mayor Vargas stated that Congressman Joe Baca held a hearing at Fontana's City Hall regarding examining the impact of the Endangered Species Act. The Delhi Sand Loving Fly is an issue in San Bernardino County and in Rialto; which is creating a problem for development.

Mayor Vargas stated that she attended a Housing Roundtable hosted by Congressman Baca.

REPORTS

Mayor Vargas stated she attended the Neighborhood Workshop held at Rialto City Hall. She stated that the staff and the Beautification Commission worked hard to put these meeting together so the public is aware of the beautification process, and it was a shame that no one showed up.

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City Administrator Report

City Administrator Garcia expressed his appreciation and thanks to the camera crew.

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ADJOURNMENT

Motion by Council Member Sampson, second by Mayor Pro Tem Wilson and carried by unanimous vote to adjourn the meeting in memory of:

Rena McGee

The City Council adjourned at 9:25 p.m.

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MAYOR GRACE VARGAS

ATTEST:

CITY CLERK BARBARA A. McGEE, CMC